

## REMARKS

Claims 11-14, 19, 21, 25-34 are pending in the instant application. All claims presently stand rejected. Claims 1, 8, 19, and 25 are amended herein. Claim 20 is hereby cancelled without prejudice. Claims 30-34 are newly presented. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Specification*

The Examiner maintained the objection to the specification for failure to provide a Summary of the Invention. The Examiner agrees that “the MPEP and the Rules do not state a summary is required,” but maintains that “this is a requirement the examiner can request and once the request is made the summary must meet the content requirements.”

*Office Action* mailed 9/9/04, page 2, paragraph 2.

While Applicants agree that if a Summary of the Invention were to be presented it should comply with Rule §1.73 and MPEP §608.01(d), as previously stated and acknowledged by the Examiner, Rule §1.73 and MPEP §608.01(d) do not require that one be presented. Rather, the Rules leave the election of whether to present a Summary of the Invention to the Applicants. Furthermore, Applicants kindly note that the Examiner has pointed to no authority, either the USC, the CFR, or the MPEP, under which the Examiner may require inclusion of a Summary of the Invention. Accordingly, Applicants respectfully elect not to present a Summary of the Invention. In any event, applicants respectfully request that this rejection be held in abeyance until such time as the patentability rejections have been resolved.

### *Claim Rejections – 35 U.S.C. § 102(b)*

Claims 1-14, 19-21, and 25-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Leak et al. (US P/N 5,937,424).

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Independent claim 1 recites, in pertinent parts “dividing the memory device into k partitions, wherein k is an integer greater than or equal to two...” Applications respectfully submit that Leak fails to disclose multiple memory partitions.

FIG. 3 of Leak fails to disclose multiple partitions of flash EPROM 104; rather Leak simply discloses that “[t]he flash EPROM includes both code and data” (*Leak*, col. 4, line 6). In fact, Leak fails to even mention the idea of partitioning EPROM 104. Simply storing both code and data within a single partition does not disclose dividing a memory device into multiple partitions.

Independent claim 1 recites “**performing data operations** from n data partitions ... **at approximately the same time as the code operations are performed** from the m code partitions...” Leak fails to disclose performing two operations at approximately the same time from two different partitions.

In fact, Leak discloses,

The code of the flash EPROM is **shadowed, or copied, to the volatile memory** ... After the code is shadowed in the volatile memory, if the flash EPROM is performing a program operation and the processor generates a code fetch request, then the processor can satisfy the code fetch request by reading the requested code from **the volatile memory**.

*Leak*, col. 4, lines 7-17 (emphasis added). Thus, Leak discloses shadowing code from EPROM 104 within volatile memory, not performing data operations **from a data partition** and code operations **from a code partition** at approximately the same time. Furthermore, the “Summary of the Present Invention” section of Leak states, “[a]n object of this invention is to provide a capability of **suspending** a program operation in a nonvolatile writeable memory **in order to read code from the nonvolatile writeable memory.**” Thus, if the program operation is suspended in order to read code, then the two operations cannot be at approximately the same time.

Consequently, Leak fails to disclose each and every element of claim 1, as required under M.P.E.P. § 2131. Independent claims 8, 11, 19, and 25 include similar claim elements to one or both of the above portions of independent claim 1. Accordingly, Applicants request that the instant §102(b) rejections of claims 1, 8, 11, 19, and 25 be withdrawn.

*Claim Rejections – 35 U.S.C. § 102(e)*

Claims 19 and 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brown et al. (US P/N 6,201,739).

Amended independent claim 19, now recites in pertinent part, “a memory device having a code partition and a data partition.” Applicants respectfully submit that Brown fails to disclose both a code partition and a data partition.

In fact, FIG. 1 of Brown discloses a single memory array 50, but fails to disclose partitioning memory array 50. FIG. 3 of Brown illustrates a flash EPROM 104 including “both code and data, wherein the code is executable by the processor.” *Brown*, col. 3, lines 66-67. However, simply storing both code and data within a single partition does not disclose a code partition and a data partition.

Consequently, Brown fails to disclose each and every element of claim 19, as required under M.P.E.P. § 2131. Accordingly, Applicants request that the instant §102(e) rejection of claim 19 be withdrawn.

*Claim Rejections – 35 U.S.C. § 103*

Claims 1-7, 9-14, and 25-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hazen et al. (US P/N 6,088,264) in view of Brown.

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Amended independent claim 1 now recites, in pertinent part, “suspending the data operations of the n data partitions if at least one of the functions accessed from the code partitions determines that a preempting operation with priority is detected.” Applicants respectfully submit that Hazen and Brown fail to disclose, teach, or suggest suspending data operations of a data partition based on functions accessed from a code partition of a single memory device.

Hazen discloses a flash memory device having multiple partitions, but fails to disclose a suspend capability. Brown discloses suspending operations, but fails to disclose multiple partitions. FIG. 10 of Brown discloses system suspend circuitry 202 to

generate “a suspend signal 206 to suspend pin 180 of the flash EPROM 110.” *Brown*, col. 9, lines 66-67. Therefore, Brown discloses circuitry **external** to flash EPROM 110 for determining whether to suspend an operation within flash EPROM 110.

As such, neither Hazen nor Brown teach or suggest suspending a data operation of a data partition if **a function accessed from a code partition** determines that a preempting operation with priority is detected. The prior art all fail to teach or suggest a function or algorithm executed from a code partition for determining priority between operations executed from a data partition of the same memory device. In fact, the prior art even fails to disclose software algorithms for determining priority, but rather disclose external **circuitry** for determining whether to suspend an operation.

Consequently, the combination of Hazen and Brown fails to teach or suggest all elements of claim 1, as required under M.P.E.P. § 2143.03. Independent claims 11 and 25 include similar claim elements as independent claim 1. Accordingly, Applicants request that the instant §103(a) rejection of claim 1, 11, and 25 be withdrawn.

Dependent claims 2-7, 9, 10, 12-14, 21, and 26-29 are patentable over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections for claims 2-7, 9, 10, 12-14, 21, and 26-29 be withdrawn.

## CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.



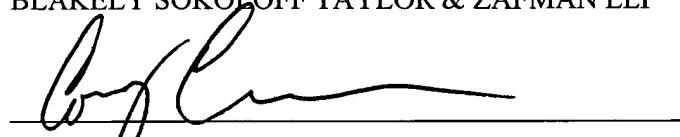
### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date: Dec. 3, 2004

A handwritten signature in black ink, appearing to read "Cory G. Claassen". It is written in a cursive style with a long horizontal line extending to the right.

Cory G. Claassen  
Reg. No. 50,296  
Phone: (206) 292-8600